

Questionnaire on Air Pollution Law

I. Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe¹ and Directive 2004/107/EC of the European Parliament and of the Council of 15 December 2004 relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air²

1. Have there been problems to fulfil the obligations, set out in these directives, *in practise*? Are there effective systems in place to ensure detection of possible non-compliance and relevant follow-up, including prosecution and adjudication?

The concentration value of Pb, CO and SO₂ in built-up areas are clearly under limit values. The highest contents of PM_{2,5} has been 15 ug/m³. Despite that, in big cities in wintertime NO_x and PM₁₀ concentrations are possible to be near the limit values due to road traffic when weather circumstances are bad for dilution of concentrations. The municipalities are obliged to establish clean air plans and implement action plans (including traffic restrictions) if limit values are in danger to exceed. The municipalities are also in charge to inform the public about air quality and alert the public if the limit values are in danger to exceed limit values.

Target value for ozone has not been exceeded, but long-term target value has exceeded in every background measurement stations and in some cities. The informing threshold value have exceeded limit values in some years in background stations. The alert threshold values has never exceeded. The Finnish meteorological institute is in charge of measurements and informing public concerning ozone values.

Normally the concentrations of As, Cd, Ni and C₁₂H₂₀ are clearly under limit values. Despite that, near some metal industry plants heavy metal concentrations have exceeded some years ago. This has been taken into account when environmental permits are granted by state permitting authority Also, the concentrations of C₁₂H₂₀ can be high due to heating of detaching houses (wood incineration in fireplaces). There might be hot spot areas, but normally these areas are so small that EU limit values are not applied. The municipalities have power to restrict the wood incineration if there are problems.

Overall, if there are problems concerning air quality limit values the legislation has mechanisms for ordinary people to claim actions. Authorities are obliged to made decisions and people have right appeal against that decisions. Access to court requires decision of authority (administrative court). It is possible to go straight to the court (civil court) to claim damages. If a private company has not been in line with permit and limit values have exceeded, the criminal procedure in civil courts are possible.

¹ <http://data.europa.eu/eli/dir/2008/50/2015-09-18>

² <http://data.europa.eu/eli/dir/2004/107/2015-09-18>

2. Are those directives properly implemented in your Member State? Have stricter or complementary air quality standards been introduced?

The air quality directives are implemented in Finland by Environmental Protection Act (EPA, 527/2014). According to EPA the Council of State has power to enact detailed limit values and other provisions. So, air quality directives are implemented detailed by Decree of Council of State on air quality (79/2017) and Decree of Council of State on As, Cd, Hg, Ni and poly aromatic hydrocarbon (113/2017).

In addition, there are complementary guidelines on air quality in Decree of Council of State on air guidelines (480/1996). This old Decree has e.g guidelines for dust (TSP) and guidelines on short time concentrations for SO₂ and NO_x. Guidelines are used also e.g in permitting procedures and when public is informed on general air quality referring to the air quality index.

3. Have EU infringement proceedings in relation to these directives been brought against your Member State?

No

4. Is there national case law in which these directives are relied upon and what are the most relevant subject areas (e.g. concerning adoption and content of air quality plans, access to relevant environmental information and public participation, etc.)?

No

- a) Are there specific difficulties to enforce judgements in these cases? If yes, please explain in more detail.

No

- b) Who are the claimants in the different categories of cases (e.g. local authorities, non-governmental organisations, private persons)?

There has not been any case, but maybe the NGO or individual people can be the main claimants.

- c) Is there case law, in which claimants demand the withdrawal of measures aimed at improving the air quality (e.g. annulment of ban of certain cars)?

There has not been any case but in some environmental permit cases concerning large combustion plants the claimants have referred to air quality problems. However, the problem has been caused by road traffic. Due to the emission height of energy plant it has normally no impact on air quality in low levels.

- d) With a view to the penalty clauses of Article 30 Directive 2008/50/EC and Article 9 of Directive 2004/107/EC:

- What type of penalties are applicable in your country to breaches of obligations deriving from these two directives? More specifically:

- Are the sanctions specifically stipulated in the transposing national legislation or are there sanctions of a general kind established in other legislation and applicable more widely?
- Are the sanctions directed explicitly or implicitly against competent authorities? Are the sanctions addressed to private natural and legal persons and/or economic operators?
- Are the sanctions of administrative or criminal nature or both? What is their range?
- Are the sanctions established as a function of obligations stemming from sources legislation? If so, how is that articulated in national law?

Normally if authorities are not comply with legislation it is possible claim administrative sanctions against them (administrative fine). Also, Criminal Code can be applied (offence in office). If air quality problem is caused by private company it might also be environmental offence according to Criminal Code 48:1.

- Are there any case law statistics available? Or statistics on the application of penalties outside of court proceedings?

No

II. Directive (EU) 2016/2284 of the European Parliament and of the Council of 14 December 2016 on the reduction of national emissions of certain atmospheric pollutants³

1. Is this directive properly implemented in your Member State? Have stricter emission reduction commitments been introduced? Has national legislation been adapted to meet the emission reduction commitments?

The directive has been implemented in legislation by EPA. The Council of State has adopted the National Air Protection Programme 2030 to meet the reduction commitments of directive. Also, Programme consists of additional measures concerning wood incineration and suspension of street dust in urban areas. According to the Programme the impacts on air quality must be take into account in other decision making processes.

2. Have EU infringement proceedings in relation to this directive been brought against your Member State?

No. Still, in some years ago the concentration of NH4 have been too high because of our farming animal emissions. At present there are no exceedance anymore.

3. Is there national case law in which this directive is relied upon?

No.

³ <http://data.europa.eu/eli/dir/2016/2284/oj>

III. Directive 2007/46/EC establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles⁴ and Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information⁵

1. How has your Member State implemented these EU vehicle type approval rules?

The directive has been implemented by Act on Traffic vehicle (1090/2002, and amendments of it 226/2009 and 276/2010)

2. Treatment of diesel vehicles when using illegal shutdown devices:

a) Are there national regulations or jurisprudence according to which an issued EC type approval (Directive 2007/46/EC) loses its legal effect if an (impermissible) shutdown (defeat) device is discovered, which was already installed, when approval was granted? (A shutdown device - usually a cheat software - manipulates gas measurements.)

No

b) What legal measures have been taken in your Member State (if any) against car manufacturers, which have failed to comply with vehicle type approval rules? These legal measures might include court cases, including between car buyers and manufacturers.

No

c) Which requirements will be imposed on the request to retrofit a vehicle in your Member State?

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d) How does the authority get information about the lack of implementation of any software updates in your Member State?

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e) Are there less onerous measures under the law of the Member State than imposing a driving ban on a vehicle? Have such less burdensome measures possibly been developed by case law?

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IV. Domestic Law

Please provide information, including case law, on additional domestic air protection law that could be interesting for other Member States.

⁴ <http://data.europa.eu/eli/dir/2007/46/2019-09-01>

⁵ <http://data.europa.eu/eli/reg/2007/715/2012-06-04>

The Council of State has adopted Decree on the environmental protection concerning rock crushing and gravelling (800/2010). According to 3 § there are minimum distance requirement for these activities (400 m to the hospitals, kindergarten and schools and 300 m to the dwelling house or recreation house). Idea is that the distance is usually enough to avoid harmful noise levels and dust immisions. Additional requirements are of course possible in conditions of environmental permit. Are there similar minimum distance requirements in other countries?

According to Traffic Code (729/2018) 55 § over 2 min idling of motor vehicle is forbidden (if temperature is bellow minus 15 C the time is 4 min before starting to drive). What is maximum idling time in other countries?

Are IE-directive (2004/35/EC) requirements concerning waste incinerqtion BAT-requirements in other countries? E.g. is it possible to demand additional burners if the plant is not hazardous waste incineration plant?